

STATE OF NEW YORK : DEPARTMENT OF HEALTH

IN THE MATTER :

OF :

ANTONIA C. NOVELLO, M.D., M.P.H., Dr. P.H., as
Commissioner of Health of the State of New York, to
determine the action to be taken with respect to:

SUNRISE NURSING HOME, INC., :

Respondent, :

arising out of alleged violations of Article 28 of the Public
Health Law of the State of New York and Title 10 (Health)
of the Official Compilation of Codes, Rules and
Regulations of the State of New York

COPY

ORDER

#NH 03-005

A Notice of Hearing and a Statement of Charges were mailed to the Respondent, Sunrise Nursing Home, Inc. The Statement of Charges set forth alleged violations of Article 28 of the Public Health Law and Title 10, Part 415 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR). A hearing on these charges was held on August 8, 2001, November 8, 2001, and December 13, 2001, at the offices of the New York State Department of Health, 217 South Salina Street, Syracuse, New York, before John Wiley, Esq., Administrative Law Judge. The Respondent was represented at the hearing by Jerome T. Levy, Esq., of Arent Fox Kintner Plotkin & Kahn. The Department of Health appeared by Donald P. Berens, Jr., Esq., General Counsel, David V. Abel, Esq., of Counsel. Evidence was received, witnesses were sworn and heard, and transcripts of the proceedings were made. The Administrative Law Judge

issued a Report dated October 4, 2002. A copy of the Report is attached to this Order in Appendix I.

NOW, on reading and filing the Notice of Hearing, the Statement of Charges, the record herein and the Administrative Law Judge's Report, I hereby adopt the Report of the Administrative Law Judge as my own; and

IT IS HEREBY ORDERED THAT:

1. The following allegations against the Respondent are sustained:

- Charge 1 - Residents 80, 89 and 97 (entering room without knocking, not explaining purpose, taking things without explanation),
- Charge 2 - Residents 6 and 75,
- Charge 3 - Resident 110,
- Charge 5 - Resident 78,
- Charge 8 - window restrictors, unsafe fluorescent light, and unsafe chair, and
- Charge 9 - refrigerator, juice machine nozzle, storage rack, cutting board, and food transport carts.

2. The following allegations against the Respondent are not sustained:

- Charge 1 - Residents 51, 52, 57, 63, 68, 70 (both allegations), 95, 97 (diabetic-safe cookies), and 98,
- Charge 2 - Residents 46 and 51,
- Charge 3 - Residents 54, 63 and 64,
- Charge 4 - Resident 80,

- Charge 6 - Residents 42, 43, 44, 48, 49, 54, 59, 62, 63, 65, 68, 71, 73, and 79, and
- Charge 7 - Resident 58.

3. The following civil penalties are imposed for a total civil penalty of \$4,100.00:

- Charge 1 - \$300.00,
- Charge 2 - \$300.00,
- Charge 3 - \$100.00,
- Charge 5 - \$2000.00,
- Charge 8 - \$400.00, and
- Charge 9 - \$1000.00.

4. Payment of this civil penalty shall be made to the Bureau of Accounts Management, New York State Department of Health, Corning Tower Building, Room 1258, Empire State Plaza, Albany, New York 12237 within thirty (30) days of the effective date of this Order;

5. Any civil penalty not paid by the date prescribed herein shall be subject to all provisions of law relating to debt collection by the State of New York. This includes but is not limited to the imposition of interest, late payment charges and collection fees, referral to the New York State Department of Taxation and Finance for collection, and non-renewal of permits or licenses (Tax Law Section 171[27], State Finance Law Section 18, CPLR Section 5001, Executive Law Section 32);

6. This Order shall be effective upon service on the Respondent or its attorney by personal service or by certified or registered mail.

DATED: Albany, New York

1.8, 2003

ANTONIA C. NOVELLO, M.D., M.P.H., Dr.P.H.
Commissioner
New York State Department of Health

BY:



DENNIS P. WHALEN
Executive Deputy Commissioner

TO: David V. Abel, Esq.
NYS Department of Health
Division of Legal Affairs
Corning Tower, Room 2412
Empire State Plaza
Albany, New York 12237

Jerome T. Levy, Esq.
Duane Morris
380 Lexington Avenue
New York, New York 10168

Sunrise Nursing Home
17 Sunrise Drive
Oswego, New York 13126